

Remarks

Favorable consideration of this application is requested in view of the foregoing amendments and following remarks. New claim 52 has been added and claims 32, 36, and 51 have been cancelled. Claims 1-31, 33-35, 37-50, and 52 are currently pending in the present application.

The specification has been amended to clarify the distinction between “proximal” and “distal.” Further, the claims are amended to clarify this distinction in the claims. The claims have also been amended to remove any multiple dependencies. As such, consideration of claims 46-50 is respectfully requested.

Claims 9, 10, 13, 14, 28 and 42-45 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The claims have been amended to overcome this rejection. In particular, the Examiner states that the preamble of claims 9, 10, and 13 is unclear. The claims have been amended to clarify the claim dependency. Withdrawal of the rejection is respectfully requested.

With regard to claim 42, the claim has been amended to provide the steps of the claimed method. As such, the claim is now definite and withdrawal of the rejection is respectfully requested.

Claims 1-11, 13-24, 26-35 and 37-45 stand rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5,951,572 to Markman. Claim 1, as amended, recites an apparatus for applying surgical fixation devices, the apparatus includes a device inserting means which has guide means in the form of a passage along which a surgical device is movable. The passage having distal and proximal ends; and a supply means including a means for holding one or more surgical devices. The supply means is movably mounted to the proximal end of the guide means so that in a first condition the supply is aligned with the passage proximal end so that a surgical device held by the holder means is moveable into the passage. In a second condition, free access is allowed to the proximal end for the insertion of a surgical tool through the passage. The apparatus also includes a separate pushing means that is engageable with a surgical device in the passage to push the device where the distal end of the pushing means is contoured to engage a surgical device.

With the present amendment, claim 1 recites, among other features, that the separate pushing means engages the surgical device in the passage and pushes the surgical device, and where the pushing means includes a contoured end for engaging the surgical device. In contrast, Markman teaches use of a needle 724 to both form the incision and to push a hair graft into the

incision. Markman does not teach a separate pushing means that includes a contoured end for engaging and fixating a surgical device. As such, Markman does not anticipate present claim 1. Withdrawal of the rejection is respectfully requested.

Claims 2-31, 33-35, and 37-41 depend from claim 1 and are patentable over the cited reference for the same reason as set forth for claim 1 in view of their additional features. Therefore, withdrawal of the rejection to these claims is respectfully requested.

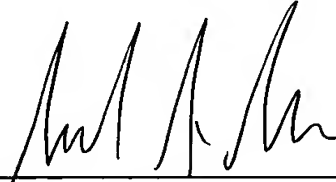
Claim 42 is directed to a method of applying a surgical device into a body. The method includes locating a surgical device in an apparatus of claim 1 and moving the supply means such that the surgical device is aligned with the passage distal end. The distal end of the pushing means engages the surgical device and the pushing means pushes the surgical device along the passage into the body. As set forth above, Markman does not teach the apparatus according to claim 1. As such, Markmann does not anticipate claim 42.

Claims 43-50 depend from claim 42 and are patentable over the cited reference for the same reason as set forth for claim 42 in view of their additional features. Therefore, withdrawal of the rejection to these claims is respectfully requested.

New claim 52 recites an apparatus for applying surgical fixation devices. the apparatus includes a device inserter which includes a guide in the form of a passage along which a surgical device is movable. The passage includes a distal end and a proximal end; and a supply including a holder for holding one or more surgical devices. The supply is movably mounted to the proximal end of the guide such that in a first condition the supply is aligned with passage proximal end so that a surgical device being held by the holder is moveable into the passage. In a second condition, free access is allowed to the proximal end for the insertion of a surgical tool through the passage. An incision member is also provided and is movable in the passage for providing an incision. The apparatus also includes a separate pusher engageable with a surgical device in the passage to push the device through the passage, into the incision to a desired fixation location within a body, there the distal end of the pusher is contoured to engage a surgical device. Markmann does not teach having a separate incision member and pusher member for locating a fixation device within a body. Nor does Markman teach a pusher device being contoured to engage the surgical device. As such, Applicant believes that the Markmann reference does not anticipate new claim 52. Allowance of the claim is respectfully requested.

In view of the foregoing claims 1-31, 33-35, 37-50, and 52 are now in condition for allowance. A response to this Amendment in the form of a Notice of Allowance is hereby solicited.

Respectfully submitted,



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